

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

---

UNITED STATES OF AMERICA,

Plaintiff and  
Counter Defendant,

Case No. 3:23-cv-00355-wmc

v.

TOWN OF LAC DU FLAMBEAU,

Defendant and  
Counter Claimant,

and

GORDON ANDERSON et al.,

Intervenor Defendants and  
Intervenor Counter Claimants.

---

**JOINT STATUS REPORT**

---

Pursuant to the Court's August 12, 2024 Order (Dkt. 82) granting the Joint Motion to Set Status Conference (Dkt. 81), Plaintiff and Counter Defendant United States of America ("United States"), Defendant and Counter Claimant Town of Lac du Flambeau ("Town"), and Intervenor Defendants and Intervenor Counter Claimants Gordon Anderson et al. (the "Homeowners") (together, the "Parties") respectfully submit the following Status Report to address the remaining case deadlines established

in the Preliminary Pretrial Conference Order (Dkt. 24), as amended (Dkts. 41, 45, 75, and 80), and outstanding discovery issues.

As a preliminary matter, the Homeowners state that they want to maintain a trial date as early as possible on the Court's calendar, but it appears that the current trial date no longer is viable due to the difficulties that the United States has had in producing responsive documents in discovery as documented in the August 8 Joint Motion to Set Status Conference (Dkt. 81). Consequently, the Homeowners have proposed tight deadlines in the suggested dates set forth below. The Town proposes a slight extension of the Homeowners' proposed deadlines to account for the holidays and to provide more time for the Court to decide dispositive motions before Rule 26(a)(3) disclosures, motions in limine, proposed voir dire questions, proposed jury instructions, and proposed verdict forms are due. Both the Homeowners' and Town's proposed schedules are acceptable to the United States.

**1. Disclosure of Experts**

The United States disclosed its expert witnesses on July 15, 2024.

The current deadline for Respondents' Disclosure of Experts is September 13, 2024. (Dkt 80.) The Parties propose to extend this deadline to November 1, 2024.

**2. Deadline for Filing Dispositive Motions**

The current deadline for the Filing of Dispositive Motions is August 30, 2024. (Dkt. 80.) The Parties propose to extend this deadline to November 22, 2024, with response briefs to be filed by December 23, 2024, and reply briefs to be filed by January 13, 2025.

**3. Schedule for Completion of Ongoing Document Production**

*a. Records currently in the possession of counsel for the United States.*

The Parties propose that the United States complete its review of the approximately 60,000 email messages and Microsoft Teams “chats” and production of all relevant, non-privileged materials by September 20, 2024.

*b. Records located at the American Indian Records Repository (“AIRR”).*

The Parties propose that the United States complete its review and digitization of the 58 boxes of paper historical records archived at AIRR and production of all relevant, non-privileged materials by September 20, 2024.

**5. Discovery Cutoff**

The current deadline to complete all discovery is November 18, 2024. (Dkt. 24.) In light of the proposed schedule for the completion of ongoing document production, the Homeowners propose to extend this deadline to January 14, 2025. The Town proposes to extend this deadline to February 5, 2025.

**6. Settlement Letters**

The current deadline for each party to submit a confidential settlement letter is December 20, 2024. (Dkt. 24.) The Homeowners propose to extend this deadline to February 14, 2025. The Town proposes to extend this deadline to March 3, 2025.

**7. Fed. R. Civ. P. 26(a)(3) Disclosures and Motions in Limine**

January 3, 2025 is the deadline to file and serve all Rule 26(a)(3) disclosures, as well as all motions in limine, proposed voir dire questions, proposed jury instructions, and proposed verdict forms. (Dkt. 24.) January 17, 2025 is the deadline to file all

responses in opposition. (*Id.*) Consistent with their proposals below to extend the trial date, the Homeowners propose to extend the two deadlines to February 28, 2025 and March 14, 2025, respectively. The Town proposes to extend the two deadlines to April 1, 2025 and April 15, 2025, respectively.

**8. First and Second Final Pretrial Conferences**

The First and Second Final Pretrial Conferences are currently scheduled for January 28, 2025, at 2:30 p.m. and February 4, 2025, at 2:30 p.m., respectively. (Dkt. 24.) Consistent with their proposals below to extend the trial date, the Homeowners propose to extend the dates of the two final pretrial conferences until March 21, 2025 and April 4, 2025, respectively, at times to be scheduled by the Court. The Town proposes to extend the dates until April 22, 2025 and May 6, 2025, respectively, at times to be scheduled by the Court.

**9. Trial**

Trial in this action is currently set for February 10, 2025, at 9 a.m. (Dkt. 24.) The Homeowners propose to extend the trial setting until April 21, 2025. The Town proposes to extend the trial setting until May 19, 2025.

Dated: August 16, 2024

Respectfully submitted,

VON BRIESEN & ROPER, S.C.

/s/ Frank W. Kowalkowski  
Frank W. Kowalkowski, SBN 1018119  
VON BRIESEN & ROPER, S.C.  
300 N. Broadway, Suite 2B  
Green Bay, WI 54303  
T: (920) 713-7800  
F: (920) 232-4897  
frank.kowalkowski@vonbriesen.com

Derek J. Waterstreet, SBN 1090730  
VON BRIESEN & ROPER, S.C.  
411 E. Wisconsin Avenue, Suite 1000  
Milwaukee, Wisconsin 53202  
T: (414) 287-1519  
F: (414) 238-6434  
derek.waterstreet@vonbriesen.com

*Counsel for the Town of Lac du Flambeau*

REINHART BOERNER VAN DEUREN S.C.

/s/ David G. Peterson  
David G. Peterson, SBN 1001047  
Bridget M. Hubing, SBN 1029356  
Olivia J. Brooks, SBN 1115787  
Samuel C. Sylvan, SBN 1131339  
REINHART BOERNER VAN DEUREN S.C.  
N16 23250 Stone Ridge Drive, Suite 1  
Waukesha, WI 53188  
T: (262) 951-4527  
F: (262) 951-4690  
dgpeterston@reinhardtllaw.com  
bhubing@reinhardtllaw.com  
obrooks@reinhardtllaw.com  
ssylvan@reinhardtllaw.com

*Counsel for Gordon Anderson et al.*

TIMOTHY M. O'SHEA  
United States Attorney  
Western District of Wisconsin

TODD KIM  
Assistant Attorney General  
Environment and Natural Resources Div.

/s/ Hillary K. Hoffman  
Hillary K. Hoffman, Trial Attorney  
Minnesota Bar No. 0402027  
Indian Resources Section  
Environment and Natural Resources Div.  
United States Department of Justice  
P.O. Box 7611, Ben Franklin Station  
Washington, D.C. 20044  
T: (202) 598-3147  
F: (202) 305-0275  
hillary.hoffman@usdoj.gov

/s/ Samuel D. Gollis  
Samuel D. Gollis, Trial Attorney  
Massachusetts BBO No. 561439  
Indian Resources Section  
Environment and Natural Resources Div.  
United States Department of Justice  
999 18th Street, South Terrace, Suite 370  
Denver, CO 80202  
T: (303) 844-1351  
F: (304) 844-1350  
samuel.gollis@usdoj.gov

*Counsel for the United States of America*